

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CURTIS J. WILLIAMS,

Plaintiff, No. CIV S-05-0164 JAM EFB P

VS.

R. W. SANDHAM, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. In mid-2006, defendants filed motions for summary judgment. Dckt. No. 53, 55. On March 29, 2007, the court granted those motions in part, but denied them as to Plaintiff's claim that defendants violated his Eighth Amendment rights by denying him Muracel eye drops and, later, Muracel 1.28% eye drops. Dckt. No. 103. Defendant Steen then filed a motion for Leave to File a Renewed Motion for Summary Judgment, as well as the renewed motion itself. Dckt. No. 114. The motion concerned the single claim surviving the first motion for summary judgment – plaintiff's claim regarding the Muracel eye drops.

Because the court had already ruled on defendant Steen's request for summary judgment of the Muracel eye drops claim, it construed his motion for leave to file a renewed motion as a motion for reconsideration of the court's March 29, 2007 order under Local Rule 230(j). So

1 construed, the court denied the motion. Dckt. Nos. 122, 124.

2 In their joint pretrial statement, all remaining defendants (Steen, Sandham, Mangis, and
3 Rohlffing) once again seek summary judgment on plaintiff's remaining claim regarding the
4 Muracel eye drops. Dckt. No. 140. As defendants have already filed a motion for summary
5 judgment on this claim, which was denied, the court once again construes this motion as a
6 motion for reconsideration of the court's March 29, 2007 order under Rule 230(j). For the
7 reasons stated in the findings and recommendations of August 12, 2010 and adopted by order
8 dated September 30, 2010, the undersigned recommends that this successive attempt at summary
9 adjudication of the Muracel eye drops claim be denied.

10 Accordingly, IT IS RECOMMENDED that defendants' August 2, 2011 request for the
11 entry of summary judgment in their favor at the pretrial conference be denied.

12 These findings and recommendations are submitted to the United States District Judge
13 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
14 after being served with these findings and recommendations, any party may file written objections
15 with the court and serve a copy on all parties. Such a document should be captioned "Objections
16 to Magistrate Judge's Findings and Recommendations." Failure to file objections within the
17 specified time may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158
18 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

19 DATED: November 15, 2011.

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21 EDMUND F. BRENNAN
22 UNITED STATES MAGISTRATE JUDGE
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